IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

FRIDAY, THE 17TH AUGUST 2007 / 26TH SRAVANA 1929

WP(C).No. 13014 of 2007(Y)

PETITIONER:

JOBI C.VADAKKAN, PRESIDENT, ALAKKODE COCONUT & AGRICULTURAL MARKETING CO-OPERATIVE SOCIETY LTD., ALAKKODE, KANNUR DISTRICT.

BY ADV. SRI.GEORGE POONTHOTTAM

RESPONDENTS:

----

1. STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, DEPARTMENT OF CO-OPERATION, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. THE REGISTRAR OF CO-OPERATIVE SOCIETIES, THIRUVANANTHAPURAM.

3. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (G), KANNUR.

4. THE ASST.REGISTRAR OF CO-OPERATIVE SOCIETIES (G), THALIPARAMBU, KANNUR DISTRICT.

BY GOVERNMENT PLEADER (SMT. ANU SIVARAMAN)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 17/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. M. JOSEPH, J.

W.P.C. NO. 13014 OF 2007 Y

Dated this the 17th August, 2007

JUDGMENT

The case of the petitioner, in brief, is as follows:

Petitioner is the President of a Primary Society. The National Co-operative Development Corporation (NCDC) had sanctioned Rs.5 Lakhs as margin money to the petitioner Society, pursuant to which the Government of Kerala issued Ext.P1 order giving administrative sanction for release of the said amount and authorised the Registrar of Co-operative Societies to draw and disburse the amount to the petitioner Society. By Ext.P2, the second respondent Registrar ordered that the amount shall be released only after getting prior clearance from the Office of the second respondent Registrar. Ext.P3 is the letter of the Joint Registrar directing the Assistant Registrar to verify and report as to whether the petitioner has complied with the formalities for the disbursement of the amount. It is stated, however, that the money has not yet

reached the petitioner. An enquiry under Section 65 was ordered to prevent disbursement of the amount, it is stated. Ext.P4 is a communication by which the matter was brought to the attention of the Registrar of Co-operative Societies by the NCDC. It is stated that the practice is such that the NCDC will release the amount to the State Government only after disbursement of the amount to the Society by the Government. It is also stated that though the amount was sanctioned, the same is not released upon the demand that it will be released only if CPM workers are given membership in the Society. It is stated that such a condition is imposed by an Inspector at the office of the Joint Registrar, by name Shri Shajan. The Assistant Registrar gave Ext.P6 Report. It shows that the Assistant Registrar recommended disbursement of the amount sanctioned by NCDC.

2. In the Counter Affidavit filed on behalf of the third respondent, it is, inter alia, stated that there was a surprise inspection and the Unit Inspector found that the working of the

Society is contrary to the objects and there is every chance of misappropriation of funds. It is stated that it was reported to the Assistant Registrar who ordered a detailed enquiry under Section 65 of the Kerala Co-operative Societies Act. It is stated that there are serious laches and the working of the Society is contrary to be objects enumerated in the Byelaws. There is financial loss in the business with the local traders. The rectification report was not at all satisfactory. Under Rule 16(c) a Certificate is to be issued by the Joint Registrar to the effect that the Society is free from corrupt practices and that no Government dues are pending recovery from the Society.

3. I heard the learned counsel for the petitioner and the learned Government Pleader. Learned Government Pleader would point out that the amount is not being sanctioned because there was no Certificate issued by the Joint Registrar. Petitioner points out Exts.P5 and P6. In Ext.P5, the Joint Registrar has written to the Assistant Registrar to present the Certificate showing that there are no arrears and the Society is free from

corruption. Ext.P6(3) is pointed out to show that the Assistant Registrar has stated that he has produced the Certificate pointing out that the Society is free from corruption. Learned Government Pleader points out that there has to be a Certificate issued by the Joint Registrar in terms of Rule 16(c) of the Rules. It is to be noted that the Joint Registrar had himself sought for a Certificate from the Assistant Registrar who has, apparently, given such a Certificate as referred to in Ext.P6. In such circumstances, the Joint Registrar has to take a decision in the matter in the light of the Certificate already produced by the Assistant Registrar as demanded for by him in Ext.P5 and in accordance with law. A decision shall be taken in accordance with law by the third respondent within two weeks from the date of receipt of a copy of this Judgment.

K. M. JOSEPH, JUDGE

kbk.